

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

4/30/2014

NATIONAL CREDIT UNION
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

MORGAN STANLEY & CO., et al.,

Defendants.

And other NCUA Actions.

Case No. 13-cv-6705 (DLC)
Case No. 13-cv-6719 (DLC)
Case No. 13-cv-6721 (DLC)
Case No. 13-cv-6726 (DLC)
Case No. 13-cv-6727 (DLC)
Case No. 13-cv-6731 (DLC)
Case No. 13-cv-6736 (DLC)

~~PROPOSED~~ ⁹ ORDER RE: ADMISSION OF
EXPERT STATISTICAL SAMPLING TESTIMONY

WHEREAS, on April 4, 2014, Plaintiff National Credit Union Administration Board (“NCUA”) filed a Motion *In Limine* to Admit Expert Statistical Sampling Testimony (the “Sampling Motion”) together with the Expert Report of Charles D. Cowan, Ph.D. Regarding the Selection of Statistically Reliable Random Samples of Mortgage Loans (the “Report”);

WHEREAS, this Court has already addressed the admissibility of a similar expert report in an order dated December 3, 2012 in Federal Housing Financial Agency, et al. v. JP Morgan Chase & Co., et al., No. 11 Civ. 6188, and related cases (the “FHFA Order”);

WHEREAS, Defendants oppose the Sampling Motion based on the arguments and objections advanced by defendants in the FHFA cases;

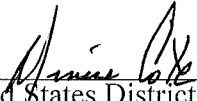
WHEREAS, the FHFA Order rejected or preserved the arguments raised by defendants in the FHFA cases and admitted the expert report at issue;


IT IS HEREBY ORDERED, that the Sampling Motion is granted, subject to the following:

(1) Defendants' right to appeal this Order on the basis of arguments raised by Defendants in the briefing of the FHFA Order is preserved.

(2) This Order is without prejudice to Defendants' right to advance at future stages of this litigation: (a) any arguments relating to the weight of Plaintiff's proof; (b) any *Daubert* challenge to the admissibility of any future expert testimony offered by Plaintiff; or (c) any argument preserved in the FHFA Order.

SO ORDERED:



United States District Judge 
Dated: April 30, 2014